

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to notification of railroad accidents and incidents and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 802, “Reporting of Railroad Accidents/Incidents,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 327C.37 and 327C.41.

Purpose and Summary

This rule making clarifies and expands the notification to the Department for certain railroad accidents and incidents. Timely notification of certain railroad accidents and incidents allows the Department’s Office of Rail Transportation to respond to immediate public safety risks as well as to identify emerging safety issues or trends that may need attention.

The following list further explains the proposed amendments:

- The title of Chapter 802, “Reporting of Railroad Accidents/Incidents” is changed to “Notification of Railroad Accidents/Incidents.” The word “reporting” is replaced with “notification” and the word “report” is replaced with “notice” within rule 761—802.2(327C). These changes were made within this chapter to be more consistent with language in Iowa Code section 327C.37 and to clarify that the Department needs to be notified of an accident or incident.

- Iowa Code section 327C.37 requires corporations operating railroads to immediately notify the Department of an injury or death. For clarity on what is meant by “immediately,” rule 761—802.2(327C) is amended to state that a railroad accident or incident must be reported to the Department within four hours of the accident or incident. Iowa Code section 327C.41 requires all common carriers subject to Iowa Code chapter 327D to notify the Department when the Department determines the notification is necessary and reasonable. The following are the notification changes that the Department determined are necessary and reasonable:

- Written reports no longer need to be submitted for railroad employee injuries because employee safety is outside the realm of the Department’s responsibility. A Federal Railroad Administration form (FRA F 6180.55 — Railroad Injury and Illness Summary) that was used for this notification is stricken from subrule 802.1(2).

- The criteria for notification of railroad accidents and incidents to the Department are expanded to include information beyond just injuries and fatalities. The added criteria include:

- ◇ Information on derailments of ten or more cars or a derailment in which any number of cars or locomotives are not upright. This information may prompt the Department’s track inspectors to take a closer look at the safety of the track structure where these incidents occur, often before cleanup is completed.

- ◇ Notification of derailment or other incident involving railroad passenger trains. This information may also trigger an investigation and is included due to the added risk to passengers in the event of an accident or incident and the associated media attention.

- ◇ Any release or potential release of hazardous materials will trigger a railroad or local response to the hazard, and the Department should be made aware of this incident and response as a part of the Department’s safety oversight.

◇ Damage to any public or private transportation infrastructure not owned by the railroad. This criterion was added as the result of a past rail incident that damaged a highway bridge. The railroad had difficulty knowing who and how to notify the appropriate highway officials about the damage after normal business hours. Notifications are now made to the Department's Traffic Management Center which is staffed year-round, 24 hours a day, including legal holidays. The Traffic Management Center has extensive contacts with highway officials and can facilitate any notifications of nonrailroad infrastructure damage as a result of a rail accident or incident.

The specific information included in the notification has also been clarified to provide a clearer picture of the accident or incident to Department personnel. This rule making will provide the Department with more complete and useful information to meet the Department's objective of protecting public safety and ensuring a safe rail infrastructure. The Office of Rail Transportation will have timely information on the nature and severity of an accident or incident and be able to act or prepare accordingly. Reporting rail accidents and incidents to the Department's Traffic Management Center allows personnel to determine whether there are primary highway impacts that should be included on www.511ia.org, the Department's notification to the public of highway incidents or delays, or if local highway officials should be notified. The notification also allows Department personnel to prepare for possible media inquiries that may occur as a result of an accident or incident. Depending upon the type or severity of an accident or incident, the notification will also allow Department personnel to notify other agencies or officials that may need to be aware of or respond to the accident or incident.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on May 15, 2018. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

May 17, 2018
11 a.m.

Department of Transportation
Administration Building
First Floor, South Conference Room
800 Lincoln Way
Ames, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **761—Chapter 802**, title, as follows:

REPORTING NOTIFICATION OF RAILROAD ACCIDENTS/INCIDENTS

ITEM 2. Amend subrule 802.1(2) as follows:

802.1(2) Forms. This rule applies to the following Federal Railroad Administration forms:

FRA F 6180.54 — Rail Equipment Accident/Incident Report

FRA F 6180.55 — ~~Railroad Injury and Illness Summary~~

FRA F 6180.57 — Rail-Highway Grade Crossing Accident/Incident Report

ITEM 3. Amend rule 761—802.2(327C) as follows:

761—802.2(327C) Immediate reporting Notification of personal injury or death railroad accidents/incidents.

802.2(1) Accidents or incidents requiring notification. Any accident/incident involving train movement which results in ~~personal injury requiring hospitalization or in death~~ any of the following shall be reported ~~immediately~~ within four hours of the accident/incident to the department:

- a. Fatality.
- b. Personal injury requiring hospitalization.
- c. Derailment of ten or more rail cars and locomotives.
- d. Derailment of any number of cars or locomotives when one or more are not upright.
- e. Derailment or other incident involving a railroad passenger train.
- f. Release or potential release of hazardous materials that presents a risk or potential risk to public safety including injury, fatality, evacuation or shelter-in-place of persons.

g. Damage to public or private transportation infrastructure not owned by the involved railroad.

802.2(1) 802.2(2) Content of immediate report notice. The ~~immediate report notice~~ of an accident/incident shall provide ~~the date and time it occurred, the nearest city, the location as accurately as possible, the number of fatalities or injuries, the train(s) involved, the nature and cause insofar as known, the name of the individual filing the report, and the name of the railroad involved., at a minimum, the following information:~~

- a. Name of the railroad involved.
- b. Name and contact information of the individual calling to file the notice.

- c. Date and time the accident/incident occurred.
- d. Location of the accident/incident, described as accurately as possible, including the nearest city and the U.S. DOT crossing identification number or railroad milepost.
- e. Description of the accident/incident.
- f. Impact on motor vehicle travel, if known.
- g. Number of injuries and fatalities.
- h. Hazardous materials involved in the incident and actions taken in the event of a release.
- i. Number of rail cars derailed.

802.2(2) 802.2(3) *Method of immediate reporting notification.* ~~During normal business hours the immediate report~~ The notice shall be filed with the office of rail transportation made to the department's traffic management center by telephone at (515)239-1140 (515)237-3300 (open year-round, 24 hours a day, including legal holidays). ~~At other times, the report shall be filed with the office of motor carrier services of the motor vehicle division of the department by telephone at (515)243-2478.~~

This rule is intended to implement Iowa Code ~~section~~ sections 327C.37 and 327C.41.